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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

THONGXY PHANSOPHA,  
Plaintiff,

vs.

CITY OF SACRAMENTO, SACRAMENTO  
POLICE DEPARTMENT, DANIEL HAHN,  
and DOE 1 to 125,

Defendants.

No. 2:20-at-1146

**COMPLAINT FOR VIOLATION OF  
CIVIL RIGHTS**

**INTRODUCTION**

This action is brought by THONGXY PHANSOPHA for damages, declaratory relief, and injunctive relief enjoining and declaring unconstitutional the deprivations of the federal and state constitutional rights caused by the CITY OF SACRAMENTO and SACRAMENTOPOLICE DEPARTMENT, and their officials and personnel, who subjected Plaintiff to a policy or custom of unreasonable and excessive use of force by firing impact weapons to strike and injure non-violent demonstrators exercising their constitutional rights to freedom of speech.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over the claims asserted herein pursuant to 28 U.S.C. § 1331 (in that they arise under the United States Constitution), and 28 U.S.C. § 1343(a)(3) (in that the action is brought to address deprivations, under color of state authority, of rights, privileges, and immunities secured by the United States Constitution). This Court has supplemental jurisdiction of the state law claims pursuant to 28 U.S.C. § 1367.

2. Venue is proper in the United State District Court for the Eastern District of California pursuant to 28 U.S.C. § 1391(b) because Defendants are located in the Eastern District of California and because the acts and/or omissions described herein occurred in the Eastern District of California.

3. Intradistrict venue is proper in the Sacramento Division of the Eastern District of California pursuant to E.D. Cal. L.R. 120(d) because the claims asserted herein arise from acts and/or omissions which occurred in the County of Sacramento, California

**EXHAUSTION**

4. THONGXY PHANSOPHA submitted a government claim to the CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT concerning his individual claims asserted in this action. The government claim was rejected as a matter of law. See Cal. Gov. Code § 912.4(c).

**PARTIES**

5. Plaintiff THONGXY PHANSOPHA is a resident of the County of Sacramento, California.

6. Defendant CITY OF SACRAMENTO is a “public entity” within the definition of Cal. Gov. Code § 811.2.

7. Defendant SACRAMENTO POLICE DEPARTMENT is a “public entity” within the definition of Cal. Gov. Code § 811.2.

8. Defendant DANIEL HAHN is, and at all times material herein was, a law enforcement officer and Police Chief for Defendants CITY OF SACRAMENTO and

1 SACRAMENTO POLICE DEPARTMENT, acting within the scope of that employment.

2 Defendant DANIEL HAHN is sued in his individual capacity.

3 9. Defendants DOE 1 to 125 are and/or were agents or employees of Defendants CITY  
4 OF SACRAMENTO and/or SACRAMENTO POLICE DEPARTMENT and acted within the  
5 scope of that agency or employment and under color of state law. The true and correct names  
6 of Defendants DOE 1 to 125 are not now known and they are identified by their fictitious  
7 names. Plaintiff THONGXY PHANSOPHA, will substitute the true and correct names of  
8 Defendants DOE 1 to 125 when ascertained.

9 **GENERAL ALLEGATIONS**

10 10. At all times relevant herein, all wrongful acts described were performed under color  
11 of state law and/or in concert with or on behalf of those acting under the color of state law.

12 11. On May 26, 2020, George Floyd, a black man, was murdered by Minneapolis police  
13 officer Derek Chauvin, a white man. Chauvin knelt on Floyd's neck for almost nine minutes,  
14 as Floyd gasped for air, begged for mercy, and told the officer he could not breathe. Three  
15 other Minneapolis police officers looked on, without intervention or protest, as Chauvin  
16 slowly killed Floyd. Floyd's killing was captured on camera and went "viral."

17 12. Floyd's murder is consistent with a longstanding, ongoing pattern of cases where  
18 minorities—and, most-often, black men—are subject to disproportionate force and  
19 sometimes killed by law enforcement without justification. For example, and in addition to  
20 Floyd, some other highly publicized and recent killings by law enforcement include Tamir  
21 Rice, Michael Brown, Eric Garner, Philando Castile, Joseph Mann, Stephon Clark, and  
22 Breonna Taylor.

23 13. Nationwide outcry, protest, and demonstration immediately resulted from Floyd's  
24 killing, with many around the country disgusted by and fed-up with law enforcement's all-  
25 too-frequent resort to deadly force without accountability. Thousands took to the streets to  
26 express their constitutional rights to freedom of speech and petition against government  
27 officials who either participated in police violence or idly stood-by while fellow officers  
28 engaged in such misconduct.

1 14. Many protests have occurred, and are continuing to occur, in Sacramento, California.  
2 Demonstrating the very same propensity for the use of unjustified violence that gave rise  
3 to these recent nationwide demonstrations, Defendant SACRAMENTO POLICE  
4 DEPARTMENT's officers took to the streets in droves, armed for war against their own  
5 citizenry, and employed severe and unjustified excessive force against peaceful, non-violent  
6 demonstrators.

7 15. On or about the final hours of May 30, 2020, and/or the early hours of May 31, 2020,  
8 Plaintiff THONGXY PHANSOPHA (pronouns: they/them) was attending a demonstration  
9 occurring in downtown Sacramento near 21st and J Streets.

10 16. A police line of Defendant SACRAMENTO POLICE DEPARTMENT's officers  
11 advanced to J and 21st Streets, where a standoff between protestors and police remained for  
12 some time.

13 17. Plaintiff THONGXY PHANSOPHA was peacefully demonstrating in front of the  
14 police line when officers, including Defendants DOE 1 to 125, began indiscriminately to fire  
15 their weapons into the crowd of protestors.

16 18. Plaintiff THONGXY PHANSOPHA observed that several protestors were directly  
17 struck with projectiles fired by Defendants DOE 1 to 125.

18 19. Defendants DOE 1 to 125 were targeting the heads of protestors, intending to  
19 severely to injure them.

20 20. Plaintiff THONGXY PHANSOPHA was shot at and hit no less than seven times,  
21 including being struck with a gas canister and six rubber bullets.

22 21. Plaintiff THONGXY PHANSOPHA was struck with a gas canister and three rubber  
23 bullets in the head and face, nearly killing them.

24 22. Plaintiff THONGXY PHANSOPHA was struck with multiple rubber bullets above  
25 the waist.

26 23. Plaintiff THONGXY PHANSOPHA fell to the ground, incapacitated and bleeding  
27 severely from the head.  
28

24. Defendants DOE 1 to 125 continued to fire-on Plaintiff THONGXY PHANSOPHA, even after they fell to the ground, defenseless and injured.

25. Plaintiff THONGXY PHANSOPHA is unable to identify the officers who shot them due to Defendants DOE 1 to 125's uniforms and equipment which obscured their identity. On information and belief, Defendants DOE 1 to 125's indistinguishable uniforms and equipment were employed, at least in part, for the purpose of hiding officers' identities and avoiding accountability.

26. Plaintiff THONGXY PHANSOPHA was admitted to the hospital for numerous and severe injuries caused by the multiple projectiles fired at them.

### **POLICY AND CUSTOM ALLEGATIONS**

27. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT's Chief of Police, Defendant DANIEL HAHN, is a final policy-making authority under state law and Defendant SACRAMENTO POLICE DEPARTMENT's General Orders. See Cal. Gov. Code §38630(a); <<https://www.cityofsacramento.org/Police/Transparency/General-Orders>>. Defendant DANIEL HAHN has served as Chief of Police since August 2017.

28. Defendants DOE 1 to 125 possess policy-making authority, based on the delegation of authority from Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, and/or DANIEL HAHN.

### **POLICIES**

29. Defendant SACRAMENTO POLICE DEPARTMENT maintains General Order 532.11 "Crowd & Riot Control Manual," available at: <<https://www.cityofsacramento.org/-/media/Corporate/Files/Police/Transparency/RMs/RM-53211-Crowd-and-Riot-as-of-1298.pdf?la=en>>. Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's policies, including General Order 532.11, ch. 2, sec. (A)(3)(e), authorizes officers to use force against non-threatening demonstrations: "If a display of officers accompanied by a dispersal order does not result in voluntary dispersal, more forceful action may be employed."

30. Defendant SACRAMENTO POLICE DEPARTMENT maintains General Order 580.02 “Use of Force,” available at: <https://www.cityofsacramento.org//media/Corporate/Files/Police/Transparency/GO/Section-500/GO-58002-Use-of-Force-6820.pdf?la=en>. Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOES 1 to 125’s policies, including General Order 580.02(A)(8)(c), defines projectile weapons fired by officers at persons to be “Less Lethal Force.” In reality, projectile weapons have the ability to severely injure, permanently disable, and kill targets. See “Death, injury and disability from kinetic impact projectiles in crowd-control settings: a systematic review,” available at: <https://bmjopen.bmj.com/content/7/12/e018154>.

31. Defendant SACRAMENTO POLICE DEPARTMENT maintains General Order 580.12 “Less Lethal Weapons,” according to General Order 580.02(E)(3)(f). Defendant SACRAMENTO POLICE DEPARTMENT does not make its General Order 580.12 “Less Lethal Weapons” publicly available. See <https://www.cityofsacramento.org/Police/Transparency/General-Orders>.

### **CUSTOMS**

32. Use of Unconstitutional Tactics in Response to Demonstration/Protest: Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125 maintain an unofficial custom whereby their officers are permitted to employ unconstitutional tactics against persons in or around the area of a demonstration/protest—particularly as it relates to demonstrations/protests concerning the subject of police violence. This custom proximately caused Defendants DOE 1 to 125’s unconstitutional actions against Plaintiff THONGXY PHANSOPHA, In addition to the incidents giving rise to this action, evidence of the existence of this custom is reflected by the circumstances in *Coburn v. City of Sacramento*, E.D. Cal. Case No. 2:19-cv-00888-TLN-AC. In the *Coburn* case, a demonstration protesting the Sacramento County District Attorney’s Office’s refusal to prosecute the police officers responsible for shooting and killing an unarmed black man, Stephon Clark, in his grandmother’s backyard, occurred on March 4,

2019. Hundreds of law enforcement officers, including Defendant SACRAMENTO POLICE DEPARTMENT's officers, corralled, "kettled," and trapped 84 persons (including participants and non-participants, such as legal observers and press members) on a highway overpass, impeding the demonstrations' movement and preventing persons from leaving the scene. The officers then declared an unlawful assembly and used force unconstitutionally to detain, arrest, and book all trapped persons. The law enforcement agencies, including Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT, agreed to settle the claims that resulted from a civil rights lawsuit pursuant to a stipulated class action settlement agreement. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT agreed to pay at least \$414,000.00 to settle the action.

33. Use of Unreasonable and Excessive Force/Failure to Train, Supervise, or Discipline:

Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125 maintain an unofficial custom whereby their officers are permitted to use unreasonable and excessive force against persons with whom they come into contact, without meaningful consequence, discipline, or corrective action. Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125's failure to investigate and to discipline officers in the face of widespread constitutional violations has resulted in use of force with impunity. This custom proximately caused Defendants DOE 1 to 100's use of force against Plaintiff THONGXY PHANSOPHA. In addition to the incidents giving rise to this action, evidence of the existence of this custom is reflected by: a. The California Department of Justice's "Report & Recommendations" issued on January 29, 2019. See <<https://oag.ca.gov/system/files/attachments/press-docs/spd-report.pdf>>. Therein, numerous and "significant deficiencies" are identified and recommendations provided in reference to Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT's use of force policies and training. For example, Defendant SACRAMENTO POLICE DEPARTMENT's use of force policies "should affirm the importance of proportionality";

1 “should prohibit certain problematic uses of force”; and should “[r]equir[e] officers to  
2 intervene during a use of force incident when the force used is outside of departmental  
3 policy.” Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE  
4 DEPARTMENT’s use of force training “should place greater emphasis on teaching officers  
5 to have a ‘guardian’ mindset”; and “should ensure its use of force training emphasizes  
6 critical-decision making skills and require such training annually for all staff, regardless of  
7 rank.” b. Numerous incidents involving allegations of unreasonable and excessive uses of  
8 force by Defendant SACRAMENTO POLICE DEPARTMENT’s officers which were  
9 substantiated by significant settlements, for example:

10 *i. Clark v. City of Sacramento*, E.D. Cal. Case No. 2:19-cv-00171-JAM-EFB  
11 (Alleging that two police officers shot an unarmed man, Stephon Clark, to death on March  
12 18, 2018, while he hid in his grandmother’s backyard. The resulting lawsuit was partially  
13 settled for \$2,400,000).

14 *ii. Cain v. City of Sacramento*, E.D. Cal. Case No. 2:17-cv-00848-JAM-DB (Alleging  
15 that a police officer grabbed, tackled, and punched a man for jaywalking on April 10, 2017,  
16 without realizing the beating was recorded. The resulting lawsuit was settled for \$550,000.  
17 <<https://www.sacbee.com/news/local/article228710949.html>>).

18 *iii. Hernandez v. City of Sacramento*, E.D. Cal. Case No. 2:17-cv-02311-JAMDB  
19 (Alleging that three police officers chased an unarmed man who had been loitering in front of  
20 a convenience store into a hospital where he was then tased, beaten, and pinned to ground  
21 until he asphyxiated to the point of coma on March 6, 2017. The resulting lawsuit was settled  
22 for \$5,200,000. <<https://www.sacbee.com/news/local/article231173283.html>>).

23 *iv. Mann v. City of Sacramento*, E.D. Cal. Case No. 2:16-cv-01847-WBS-DB  
24 (Alleging that a mentally-ill man was falsely reported to have a gun when two police officers  
25 unsuccessfully attempted to run-over the man with their patrol vehicle and, after failing to do  
26 so, exited the vehicle, pursued the man on foot as he fled, cornered the man, and shot him to  
27 death on July 11, 2016. The resulting lawsuit was settled for \$719,000.  
28 <[www.sacbee.com/news/local/article130391109.html](http://www.sacbee.com/news/local/article130391109.html)>).



v. *Namoca v. City of Sacramento*, E.D. Cal. Case No. 2:16-cv-02283-TLNEFB (Alleging that two police officers falsely accused a minor of “tampering” with a mailbox, tackled him to the ground and dislocated his shoulder, and unlawfully detained him in the back of a police car for nearly an hour while conducting pretextual records searches before finally releasing him when it became apparent that no lawful justification for the arrest could be found on June 7, 2016. The resulting lawsuit was settled for \$40,000. <<https://www.sacbee.com/news/local/article228710949.html>>).

vi. *Thompson v. City of Sacramento*, E.D. Cal. Case No. 2:18-cv-00806-KJMDB (Alleging that a police officer slammed a woman face-first into the frame of a patrol vehicle multiple times, breaking her nose and the orbital around her eye on April 10, 2016. The resulting lawsuit was settled).

vii. *Halcomb v. City of Sacramento*, E.D. Cal. Case No. 2:14-cv-02796-MCEDB (Alleging that three police officers broke into the wrong residence seeking the subject of an arrest warrant who lived at a different address and used excessive and unreasonable force against the resident when he confronted the intruders on August 8, 2014. The resulting lawsuit was settled for \$220,000, after it was discovered that a police officer lied about the existence of a warrant. <<http://www.sacbee.com/news/local/crime/article147296244.html>>. On March 7, 2018, in response to a subsequent citizen complaint against the officer who lied under oath, Defendant DANIEL HAHN found “no violation of Police Department rules or regulations” by the officer that lied, under oath, about the existence of a warrant).

## RATIFICATION

34. On information and belief, Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125 will fail and/or refuse to hold their officers accountable for the unreasonable and excessive uses of force against Plaintiff THONGXY PHANSOPHA.

35. On information and belief, Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125 will determine that the unreasonable and excessive uses of force against Plaintiff THONGXY PHANSOPHA were

1 justified and/or in compliance with Defendant SACRAMENTO POLICE DEPARTMENT's  
2 policies and general orders, based on the customs described above.

3  
4 **FIRST CLAIM**  
5 **Unreasonable and Excessive Force**  
6 **(U.S. Const., Amend. IV; 42 U.S.C. § 1983)**

7 36. This Claim is asserted by Plaintiff THONGXY PHANSOPHA on behalf of  
8 themselves against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE  
9 DEPARTMENT, DANIEL HAHN, and DOE 1 to 125.

10 37. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the  
11 preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

12 38. Defendants DOE 1 to 100, acting or purporting to act under color of state law and in  
13 the performance of their official duties as law enforcement officers, used unreasonable and  
14 excessive force against Plaintiff THONGXY PHANSOPHA, or failed to intercede and/or  
15 were integral participants to the use of unreasonable and excessive force, in violation of  
16 rights protected by the Fourth Amendment (as incorporated through the Fourteenth  
17 Amendment) of the U.S. Constitution.

18 39. Defendants DANIEL HAHN and DOE 1 to 125's actions and inactions were  
19 motivated by evil motive or intent, involved reckless or callous indifference to  
20 constitutionally protected rights, or were wantonly or oppressively done.

21 40. As a direct and proximate result of Defendants CITY OF SACRAMENTO,  
22 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions  
23 and inactions, Plaintiff THONGXY suffered injuries entitling them to receive compensatory  
24 damages and equitable (declaratory and injunctive) relief against Defendants CITY OF  
25 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
26 and DOE 1 to 125; and punitive damages against Defendants DANIEL HAHN and DOE 1 to

27 41. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
28 appears.

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**SECOND CLAIM**  
**Unreasonable and Excessive Force**  
**(U.S. Const., Amend. XIV; 42 U.S.C. § 1983)**

42. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125.

43. Plaintiffs THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

44. Defendants DOE 1 to 100, acting or purporting to act in the performance of their official duties as law enforcement officers, engaged in conscience-shocking conduct by employing potentially-lethal force with the purpose to harm and/or deliberate indifference and without regard to the known or obvious risks of injury to Plaintiff THONGXY, or failed to intercede and/or were integral participants to the potentially-lethal force, in violation of rights protected by the Fourteenth Amendment of the U.S. Constitution

45. Defendants DANIEL HAHN and DOE 1 to 125's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to constitutionally protected rights, or were wantonly or oppressively done.

46. As a direct and proximate result of Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions and inactions, Plaintiff THONGXY suffered injuries entitling them to receive compensatory damages and equitable (declaratory and injunctive) relief against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125; and punitive damages against Defendants DANIEL HAHN and DOE 1 to 125.

47. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder appears.

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**THIRD CLAIM**  
**Retaliation**  
**(U.S. Const., Amend. I; 42 U.S.C. § 1983)**

48. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125.

49. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

50. Defendants DOE 1 to 100, acting or purporting to act under color of state law and in the performance of their official duties as law enforcement officers, retaliated against Plaintiff THONGXY PHANSOPHA for engaging in constitutionally protected activity with intent to inhibit that activity, or failed to intercede and/or were integral participants to the retaliation, in violation of rights protected by the First Amendment (as incorporated through the Fourteenth Amendment) of the U.S. Constitution.

51. Defendants DANIEL HAHN and DOE 1 to 125's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to constitutionally protected rights, or were wantonly or oppressively done.

52. As a direct and proximate result of Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries entitling them to receive compensatory damages and equitable (declaratory and injunctive) relief against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125; and punitive damages against Defendants DANIEL HAHN and DOE 1 to 125.

53. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder appears.

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**FOURTH CLAIM**  
**Equal Protection**  
**(U.S. Const., Amend. XIV; 42 U.S.C. § 1983)**

54. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125.

55. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

56. Defendants DOE 1 to 125, acting or purporting to act under color of state law and in the performance of their official duties as law enforcement officers, discriminated against Plaintiff THONGXY in using force against them based on an animus towards attendees at demonstrations concerning police violence and accountability, without a rational relationship to any legitimate state interest, or failed to intercede and/or were integral participants to the discriminatory uses of force, in violation of rights protected by the Fourteenth Amendment of the U.S. Constitution.

57. Defendants DANIEL HAHN and DOE 1 to 125's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to constitutionally protected rights, or were wantonly or oppressively done.

58. As a direct and proximate result of Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries entitling them to receive compensatory damages and equitable (declaratory and injunctive) relief against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125; and punitive damages against Defendants DANIEL HAHN and DOE 1 to 125.

59. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder appears.

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**FIFTH CLAIM**  
**Unreasonable and Excessive Force**  
**(Cal. Const., Art. I, § 13)**

60. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125.

61. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

62. Cass Claims: Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125, acting or purporting to act under color of state law and as policymaking authorities, maintained policies or customs of action and inaction resulting in the violation of the rights of Plaintiff THONGXY PHANSOPHA, protected by Article I, Section 13 of the California Constitution.

62. As a direct and proximate result of Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125's actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries entitling them to receive equitable (declaratory and injunctive) relief against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125.

63. WHEREFORE, Plaintiffs THONGXY PHANSOPHA prays for relief as hereunder appears.

**SIXTH CLAIM**  
**Unreasonable and Excessive Force**  
**(Cal. Const., Art. I, § 7(a))**

64. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125.

65. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

66. As a direct and proximate result of Defendants CITY OF SACRAMENTO,

1 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125's  
2 actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries  
3 entitling them to receive equitable (declaratory and injunctive) relief against Defendants  
4 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
5 and DOE 101 to 125.

6 67. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
7 appears.

8 **SEVENTH CLAIM**  
9 **Retaliation**  
**(Cal. Const., Art. I, §§ 1, 2, 3)**

10 68. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants  
11 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
12 and DOE 1 to 125.

13 69. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the  
14 preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

15 70. As a direct and proximate result of Defendants CITY OF SACRAMENTO,  
16 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125's  
17 actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries entitling them to  
18 receive equitable (declaratory and injunctive) relief against Defendants CITY OF  
19 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE  
20 101 to 125.

21 71. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
22 appears.

23 **EIGHTH CLAIM**  
24 **Equal Protection**  
**(Cal. Const., Art. I, § 7(a))**

25 72. This Claim is asserted by Plaintiffs THONGXY PHANSOPHA against Defendants  
26 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
27 and DOE 1 to 125.

28 73. Plaintiff THONGXY reallege and incorporates the allegations of the preceding  
paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

1 74. As a direct and proximate result of Defendants CITY OF SACRAMENTO,  
2 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125's  
3 actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries entitling them to  
4 receive equitable (declaratory and injunctive) relief against Defendants CITY OF  
5 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE  
6 101 to 125.

7 75. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
8 appears.

9 **NINTH CLAIM**  
10 **Rehabilitation Act**  
**(29 U.S.C. § 701, et seq.)**

11 76. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants  
12 CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT.

13 77. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the  
14 preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

15 78. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE  
16 DEPARTMENT each qualify as a "public entity" within the meaning of 42 U.S.C. §  
17 12131(1)(A) and 28 C.F.R. § 35.104. On information and belief, Defendants CITY OF  
18 SACRAMENTO and SACRAMENTO POLICE DEPARTMENT receive federal financial  
19 assistance. Plaintiff THONGXY PHANSOPHA at all times material herein, were regarded as  
20 having a physical or mental impairment that substantially limited one or more major life  
21 activities; or perceived to have a physical or mental impairment.

22 79. Defendants DOE 1 to 100, acting or purporting to act in the performance of their  
23 official duties as law enforcement officers, failed reasonably to accommodate  
24 Plaintiff THONGXY PHANSOPHA's disabilities and personally utilized, failed to intercede  
25 and prevent, and/or were integral participants to excessive and unreasonable force used  
26 against them because of their apparent or perceived disabilities, in violation of their rights  
27 protected by the Rehabilitation Act, 29 U.S.C. § 794, et seq.  
28



80. Defendants DANIEL HAHN, and DOE 101 to 125's actions and inactions were motivated by evil motive or intent, involved reckless or callous indifference to statutorily protected rights, or were wantonly or oppressively done.

81. As a direct and proximate result of Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries entitling them to receive nominal, compensatory, and punitive damages and equitable (declaratory and injunctive) relief against Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT.

82. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder appears.

**TENTH CLAIM**  
**Americans With Disabilities Act**  
**(42 U.S.C. § 12101, et seq.)**

83. This Claim is asserted by Plaintiffs THONGXY PHANSOPHA against Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT.

84. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

85. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT each qualify as a "public entity" within the meaning of 42 U.S.C. § 12102(1) and 28 C.F.R. § 35.104. Plaintiff THONGXY PHANSOPHA at all times material herein, was regarded as having a physical or mental impairment that substantially limited one or more major life activities; or perceived to have a physical or mental impairment.

86. Defendants DOE 1 to 100, acting or purporting to act in the performance of their official duties as law enforcement officers, failed reasonably to accommodate Plaintiff THONGXY PHANSOPHA's disabilities and personally utilized, failed to intercede and prevent, and/or were integral participants to excessive and unreasonable force used against them because of their apparent or perceived disabilities, in violation of their rights protected by the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

1 87. Defendants DANIEL HAHN, and DOE 101 to 125's actions and inactions were  
2 motivated by evil motive or intent, involved reckless or callous indifference to statutorily  
3 protected rights, or were wantonly or oppressively done.

4 88. As a direct and proximate result of Defendants CITY OF SACRAMENTO,  
5 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions  
6 and inactions, Plaintiff THONGXY PHANSOPH suffered injuries entitling them to receive  
7 nominal, compensatory, and punitive damages and equitable (declaratory and injunctive)  
8 relief against Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE  
9 DEPARTMENT.

10 89. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
11 appears.

12 **ELEVENTH CLAIM**

13 **Bane Act**

14 **(Cal. Civ. Code § 52.1)**

15 90. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants  
16 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
17 and DOE 101 to 125.

18 91. Plaintiff THONGXY PHANSOPHA reallege and incorporates the allegations of the  
19 preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

20 92. U.S. Const., Amend. IV & Cal. Const., Art. I, § 13 Claims: Defendants CITY OF  
21 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE  
22 101 to 125, acting or purporting to act under color of state law and as policymaking  
23 authorities, maintained policies or customs of action and inaction resulting in the violation of  
24 the rights of Plaintiffs THONGXY PHANSOPHA protected by the Fourth Amendment (as  
25 incorporated through the Fourteenth Amendment) of the U.S. Constitution and Article I,  
26 Section 13 of the California Constitution.

27 93. Cal. Const., Amend. XIV & Cal. Const., Art. I, § 7(a) Claims: Defendants CITY OF  
28 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE  
101 to 125, acting or purporting to act under color of state law and as policymaking  
authorities, maintained policies or customs of action and inaction resulting in the violation of

1 the rights of Plaintiff THONGXY PHANSOPHA protected by the Fourteenth Amendment of  
2 the U.S. Constitution and Article I, Section 7(a) of the California Constitution.

3 94. Cal. Const., Amend. I & Cal. Const., Art. I, §§ 1, 2, 3 Claims: Defendants CITY OF  
4 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE  
5 101 to 125, acting or purporting to act under color of state law and as policymaking  
6 authorities, maintained policies or customs of action and inaction resulting in the violation of  
7 the rights of Plaintiffs THONGXY PHANSOPHA protected by the First Amendment (as  
8 incorporated through the Fourteenth Amendment) of the U.S. Constitution and Article I,  
9 Sections 1, 2, and 3 of the California Constitution.

10 95. Cal. Const., Amend. XIV & Cal. Const., Art. I, § 7(a) Claims: Defendants CITY OF  
11 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE  
12 101 to 125, acting or purporting to act under color of state law and as policymaking  
13 authorities, maintained policies or customs of action and inaction resulting in the violation of  
14 the rights of Plaintiff THONGXY PHANSOPHA, protected by the Fourteenth Amendment  
15 of the U.S. Constitution and Article I, Section 7(a) of the California Constitution.

16 96. As a direct and proximate result of Defendants CITY OF SACRAMENTO,  
17 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 101 to 125's  
18 actions and inactions, Plaintiff THONGXY PHANSOPHA suffered injuries  
19 entitling them to receive statutory penalties and equitable (declaratory and injunctive) relief  
20 against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT,  
21 DANIEL HAHN, and DOE 101 to 125.

22 97. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
23 appears.

24 **TWELFTH CLAIM**  
**Intentional Infliction of Emotional Distress**

25 98. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants  
26 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
27 and DOE 101 to 125.

1 99. Plaintiff THONGXY PHANSOPHA reallege and incorporates the allegations of the  
2 preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

3 100. Defendants DOE 1 to 200, acting or purporting to act in the performance of his  
4 official duties as a law enforcement officer, engaged in outrageous conduct, including: (i) use  
5 of unreasonable and excessive force; (ii) conscience-shocking employment of dangerous  
6 force; (iii) retaliation; and (iv) discrimination against Plaintiff THONGXY PHANSOPHA,  
7 and, as a result of that outrageous conduct, Plaintiff suffered severe emotional distress.

8 101. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE  
9 DEPARTMENT are vicariously liable, through the principles of respondeat superior and  
10 pursuant to Cal. Gov. Code §§815.2(a) and 820(a), for injuries proximately caused by the  
11 acts and omissions of their employees acting within the scope of their employment, including  
12 Defendants DANIEL HAHN and DOE 1 to 225.

13 102. Defendants DANIEL HAHN and DOE 1 to 225's actions and inactions constituted  
14 oppression, fraud, and/or malice resulting in great harm.

15 103. Plaintiff THONGXY PHANSOPHA was injured as a direct and proximate result of  
16 Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT,  
17 DANIEL HAHN, and DOE 1 to 225's actions and inactions, entitling them to receive  
18 compensatory damages against Defendants CITY OF SACRAMENTO, SACRAMENTO  
19 POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 225; and punitive damages  
20 against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT,  
21 DANIEL HAHN and DOE 1 to 225.

22 104. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
23 appears.

24 **THIRTEENTH CLAIM**  
**Negligence**

25 105. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants  
26 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
27 and DOE 101 to 125.  
28

1 106. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the  
2 preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

3 107. Defendants DOE 1 to 200, acting or purporting to act in the performance of his  
4 official duties as a law enforcement officer, owed Plaintiff THONGXY PHANSOPHA a  
5 duty of care and breached that duty, including by: (i) employing inappropriate tactical  
6 conduct and decisions preceding the use of dangerous force; (ii) using of unreasonable and  
7 excessive force; (iii) conscience-shocking employment of dangerous force; (iv) retaliating  
8 against demonstration attendees; and (iv) discriminating against demonstration attendees.

9 108. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE  
10 DEPARTMENT are vicariously liable, through the principles of respondeat superior and  
11 pursuant to Cal. Gov. Code §§815.2(a) and 820(a), for injuries proximately caused by the  
12 acts and omissions of their employees acting within the scope of their employment, including  
13 Defendants DANIEL HAHN and DOE 1 to 225.

14 109. Defendants DANIEL HAHN and DOE 1 to 225's actions and inactions constituted  
15 oppression, fraud, and/or malice resulting in great harm.

16 110. Plaintiff THONGXY PHANSOPHA was injured as a direct and proximate result of  
17 Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT,  
18 DANIEL HAHN, and DOE 1 to 225's actions and inactions, entitling them to receive  
19 compensatory damages against Defendants CITY OF SACRAMENTO, SACRAMENTO  
20 POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 225; and punitive damages  
21 against Defendants DANIEL HAHN and DOE 1 to 225.

22 111. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder  
23 appears.

24 **FOURTEENTH CLAIM**  
**Assault / Battery**

25 112. This Claim is asserted by Plaintiff THONGXY PHANSOPHA against Defendants  
26 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
27 and DOE 101 to 125.  
28

113. Plaintiff THONGXY PHANSOPHA realleges and incorporates the allegations of the preceding paragraphs 1 to 35, to the extent relevant, as if fully set forth in this Claim.

114. Defendants DOE 1 to 200, acting or purporting to act in the performance of their official duties as law enforcement officers, intentionally touched, caused to be touched, or threatened to touch, without consent, Plaintiff THONGXY PHANSOPHA, and that touching or threatened touching constituted unreasonable and excessive force.

115. Defendants CITY OF SACRAMENTO and SACRAMENTO POLICE DEPARTMENT are vicariously liable, through the principles of respondeat superior and pursuant to Cal. Gov. Code §§ 815.2(a) and 820(a), for injuries proximately caused by the acts and omissions of their employees acting within the scope of their employment, including Defendants DANIEL HAHN and DOE 1 to 225.

116. Defendants DANIEL HAHN and DOE 1 to 225's actions and inactions constituted oppression, fraud, and/or malice resulting in great harm.

117. Plaintiff THONGXY PHANSOPHA was injured as a direct and proximate result of Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 225's actions and inactions, entitling them to receive compensatory damages against Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 225; and punitive damages against Defendants DANIEL HAHN and DOE 1 to 225.

118. WHEREFORE, Plaintiff THONGXY PHANSOPHA prays for relief as hereunder appears.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff THONGXY PHANSOPHA seeks Judgment as follows:

1. For issuance of a judgment declaring that Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125's actions, inactions, and/or policies or customs complained of herein unconstitutional under the U.S. Constitution and the California Constitution;

1           2.       For entry of a preliminary and permanent injunction enjoining Defendants  
2 CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN,  
3 and DOE 1 to 125's prospective actions, inactions, and/or policies or customs complained of  
4 herein in violation of the U.S. Constitution, the California Constitution, and Cal. Civ. Code §  
5 52.1;

6           3.       For an award of compensatory, general, and special damages against  
7 Defendants CITY OF SACRAMENTO, SACRAMENTO POLICE DEPARTMENT,  
8 DANIEL HAHN, and DOE 1 to 125, according to proof at trial;

9           4.       For an award of exemplary or punitive damages against Defendants CITY OF  
10 SACRAMENTO, SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN and DOE 1  
11 to 125, in an amount sufficient to deter and to make an example of them, because their  
12 actions and/or inactions were motivated by evil motive or intent, involved reckless or callous  
13 indifference to protected rights, or were wantonly or oppressively done; and/or constituted  
14 oppression, fraud, and/or malice resulting in great harm;

15           5.       For an award of actual damages, treble damages, punitive damages, civil  
16 penalties, and any other available relief against Defendants CITY OF SACRAMENTO,  
17 SACRAMENTO POLICE DEPARTMENT, DANIEL HAHN, and DOE 1 to 125, pursuant  
18 to Cal. Civ. Code §§ 52, 52.1, and any other statute as may be applicable (except that no  
19 punitive damages are sought against Defendants CITY OF SACRAMENTO and  
20 SACRAMENTO POLICE DEPARTMENT pursuant to Cal. Civ. Code § 818);

21           6.       For an award of reasonable attorneys' fees and costs, pursuant to 42 U.S.C. §  
22 1988, 29 U.S.C. § 794, 42 U.S.C. § 12205, Cal. Civ. Code § 52.1, Cal. Code Civ. Proc. §  
23 1021.5, and any other statute as may be applicable; and

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28 ///

BY /s/  
DENNIS F. MORIARTY  
ARLEN LITMAN-CLEPER  
Attorney for Plaintiff  
THONGXY PHANSOPHA